

REMARKS

Claims 1-3, 5, and 8 are pending. In accordance with the foregoing, claims 1 and 2 are amended. In the above referenced Office Action, claims 1-3, 5 and 8 stand rejected. Applicant respectfully traverses the rejections and requests a withdrawal of all rejections as set forth below.

The Examiner asserts that the declaration does not comply with 37 CFR 1.63 (a). Applicant asserts that the submitted declaration is in compliance with 37 CFR 1.63, as defined in 37 CFR 1.56. Specifically, the submitted declaration states that the inventors “acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations Section 1.56(a).” This language (as used in applicant’s declaration) was specified by the USPTO and was widely used prior to the 1992 amendment of 37 CFR 1.63(b).

The USPTO explicitly stated that the pre-1992 oaths comply with the now used language and would continue to be accepted by the Office. In its affirmation, the USPTO stated:

“Reply: The averments in oath or declaration forms presently in use that comply with the previous § 1.63 or § 1.175 will also comply with the requirements of the new rules.

Therefore, the Office will continue to accept the old oath or declaration forms as complying with the new rules.” See, 57 FR 2034 (emphasis added).

Therefore, applicant respectfully requests withdrawal of the objection to the declaration.

The specification is objected to because of an informality. Applicant has updated the status of the cross-reference to a prior application in accordance with the foregoing amendment, thereby obviating the objection.

Claims 1-3, 5 and 8 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Applicant has amended claim 1, as suggested by the Examiner, and respectfully requests withdrawal of the rejection.

Claims 1, 3, 5, and 8 stand rejected under 35 U.S.C. 102(e) as being anticipated by Snell (U.S. 6,263,245). In the previous response, Applicant

articulated distinctions between the pending claims and the cited references thus indicating that the reference was insufficient to anticipate the claims. The content of the previous response is incorporated by reference in its entirety. The Examiner has responded by indicating that Snell provides real-time communication since such communication includes transmission of user interrogation requests to upload or download information and further indicates that real-time transmission of measured data would have been an available option. The Examiner's statements are simply conclusory in nature and not actually representative of the teachings of Snell. Snell clearly teaches a portable interrogation device that interrogates data, and then "at a later time" may be connected to programmer/analyzer 150 to allow high speed access to the data by the programmer/analyzer (col. 6, lines 38-41). Snell provides no suggestion nor motivation to allow real time communication of data from the implanted device to the programmer/analyzer. To the contrary, Snell is clearly aimed at providing a device to interrogate and store the data until a later time. Claim 1 has been amended to recite "means for coordinating real-time communication between the telemetry circuit and the clinical instrument user interface to cooperatively uplink data from the implantable medical device upon receipt of an interrogation command entered on the clinical instrument user interface." The module of claim 1 thus operates cooperatively with the clinical instrument to retrieve data from the implantable medical device. The portable interrogation device described by Snell is clearly configured to operate in an independent manner, i.e. without requiring connection to the processor/analyzer to retrieve data from an implanted device. This is clearly stated at col. 8, lines 1-2: "Interrogation of the medical device 210 is performed by portable interrogation device 230." An interrogation command is entered on the portable interrogation device. As such, Snell fails to teach, suggest or imply, "means for coordinating real-time communication between the telemetry circuit and the clinical instrument user interface to cooperatively uplink data from the implantable medical device upon receipt of an interrogation command entered on the clinical instrument user

interface.” For at least this reason, Applicant respectfully asserts the rejection should be withdrawn.

Claim 2 stands rejected under 35 U.S.C. 102(e) as anticipated by or in the alternative under 35 U.S.C. 103(a) as being unpatentable over Snell. Snell clearly teaches the portable interrogation device having its own power source 472. Snell never teaches or suggests that interrogation device 230 receives power from processor 240 and never teaches a connector for electrical connection to receive such power. While the Examiner states that a USB connection can allow recharging or conserving of power when reliance on autonomous power is unnecessary, Snell never teaches or suggests an electrical connection to receive power from the processor 240. The dashed line in Figure 2 and the connection in communication path 480 are communication lines, not power lines. Reliance on autonomous power is necessary in the Snell device during independent interrogation of the implanted device by the portable interrogation device. As such, a module connector allowing an electrical power source included in the clinical instrument to be connected to power the telemetry circuit is not taught nor suggested.

Applicant respectfully asserts that the present claims are in condition for allowance. Withdrawal of the instant rejections and issuance of a Notice of Allowance is respectfully requested.

Respectfully submitted,

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Date

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